IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

Crl.MC.No. 1708 of 2007()

CC.923/2005 of JUDL. MAGISTRATE OF FIRST CLASS COURT-II, ATTINGAL

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PETITIONER: ACCUSED

NAISAM, AGED 35 YEARS,
S/O.ABDUL MAJEED, KUNNIL VEETTIL, PLLIKKAL,
CHIRAYINKEEZHU TALUK,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.E.RAFEEK

RESPONDENTS:

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1. SHEEBA, AGED 25 YEARS,
D/O ABDUL RAHIM, KOCHU POIKAYIL VEEDU,
PALLIKKAL, CHIRAYINKEEZHU TALUK, KILIMANOOR,
THIRUVANANTHAPURAM DISTRICT.

2. STATE OF KERALA,
REP.BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY ADV. SRI.K.SATHEESH KUMAR (R1)
BY P.P. SRI.GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO.1708 OF 2007

Dated this the 28th day of May, 2007

ORDER

The petitioner is the sole accused and he was the husband of the 1st respondent. He faces indictment for the offence under Sec.498A of the IPC. The 1st respondent filed a private complaint. The same was referred to the police under Sec.156(3) of the Cr.P.C. Final report was filed. Cognizance was taken. The case is now pending.

2. The parties have settled their disputes in the meantime. All outstanding disputes are settled. Divorce has been effected in accordance with law. Parties are residing separately. Harmony has returned.

3. The continuation of the prosecution is remaining an unnecessary irritant in the relationship between the parties. In these circumstances, the petitioner – husband and the 1st respondent – divorced wife, pray through their counsel that

the proceedings may be brought to premature termination and may not be allowed to continue.

4. The 1st respondent has filed an affidavit confirming such settlement. I am satisfied from the totality of the materials available that the matter has been settled between parties amicably. The composition can be accepted, if legally permissible. The offence under Sec.498A of the IPC is not compoundable. But the learned counsel submits that the decision in **B.S. Joshy v. State of Haryana** (AIR 2003 SC 1386) justifies the invocation of the powers under Sec.482 of the Cr.P.C. The rationale underlying the said decision is that the interests of justice may at times transcend the interests of mere law and in such exceptional cases powers under Sec.482 of the Cr.P.C. can be invoked and Sec.320 of the Cr.P.C. cannot be a fetter to the invocation of such power.

5. I am satisfied that this is an eminently fit case where the harmonious settlement of the disputes between the spouses can be accepted and the proceedings brought to premature termination.

6. In the result:

(i) This Crl.M.C. is allowed.

(ii) C.C.No.923/05 pending before the Judicial Magistrate of the First Class-II, Attingal, Trivandrum District, against the petitioners is hereby quashed.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge